S.B.CIVIL WRIT PETITION NO.231/2005.
(The Chairman, Nagar Palika, Nimahera & another v. Judge. Lab.Court & Anr.)

DATE OF ORDER: JANUARY 24, 2005.

HON'BLE MR.JUSTICE R.P.VYAS

Mr.Kailash Joshi, for Petitioners.

The instant petition has been filed by the petitioners – the Chairman and the Executive Officer, Nagar Palika, Nimbahera, District – Chittograrh praying therein that the judgment and award dated May 31, 2004 (Annexure 5), passed by the Judge, Industrial Tribunal, Bhilwara, may be quashed and set aside.

The facts giving rise to the instant petition are that Ram Gopal Sen – respondent No.2 raished an industrial dispute, which was referred for adjudication to the Industrial Tribunal, Bhilwara. The learned Tribunal framed the issue to the effect that whether denying benefit of regularisation and regular pay, inspite of vacant post of Health Inspector by the Chairman/Executive Officer, Nagar Palika, Nimbaheda to respondent-workman Ram Goapl Sen, Health Inspector (who has been represented by the Rajasthan Nagar Palika Sangh, Nimbaheda), is valid or not ? If not, what relief workman is entitled to ?

It was stated by the claimant (respondent-workman) in the claim petition that initially, he was appointed on 12.7.96 and his services were quite appreciated by the Higher Authorities, but despite that, he has not been regularised, nor he is getting the minimum wages.

On behalf of the non-claimant (petitioners-Nagar Palika, Nimbahera), it was stated that the respondent-workman was appointed on contract basis of Rs.70/- per day. He was neither appointed as regular employee, nor his appointment was made in accordance with the Rajasthan Municipal (Subordinate and Ministerial) Services, Rules, 1963 (hereinafter referred to as “the Rules of

1963'). In support of their contention, an affidavit of one Shri Radhey Shyam, Executive Officer, was filed to show that the respondent-workman was appointed on the post of Health Inspector only on contract basis of Rs.70/- per day.

The learned Tribunal, after considering the material available on record, perusing the claim petition, reply to the claim petition as well as the documents produced by the parties, held that the respondent-workman is entitled for regular pay scale from the date of his appointment.

I have heard learned counsel for the petitioner.

The learned Tribunal, after objective considerations and with subjective satisfaction, has rightly held that the respondent-workman has worked as Health Inspector for more than seven years from 12.7.96 continuously under the Nagar Palika, Nimbahera. He was not given the pay scale of Health Inspector and he was not regularised by the Nagar Palika. The workman-respondent is entitled to get the regular pay scale of Health Inspector. He is also entitled to be regularised on the aforesaid post of Health Inspector. Apart from that, it was also found by the learned Tribunal that despite being vacant post of Health Inspector available with the Nagar Palika, Nimbahera, he was not given the regular appointment as well as regular pay scale, which he was entitled to.

In this view of the matter, I do not find any justification to interfere with the findings of the learned Tribunal. The instant petition has no force. The same is hereby dismissed in limine.

(R.P.VYAS),J.

Scd.